

HUMAN SERVICES BOARD

In re) Fair Hearing No. R-02/09-115
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 Appeal of)

The petitioner appeals the decision by the Department for Children and Families, Economic Services Division, Health Access Eligibility Unit (HEAU) terminating her VHAP benefits and not retroactively reinstating her coverage following her failure to pay her premium in a timely manner. The issue is whether under the petitioner's circumstances the regulations bar retroactive reinstatement of benefits.

Although the facts in the case took some time to unravel, they are not in dispute. The following findings are based on the representations of the parties in written submissions and in telephone conferences held on April 3, May 13, June 3, and July 10, 2009.

1. In September 2008 the petitioner was enrolled in VHAP, subject to the payment of a monthly premium based on her income. The petitioner paid her premium by checks she mailed to the Department.

2. On September 27, 2008 the Department mailed the petitioner a premium bill for \$135 that was due on October 15, 2008 for coverage in November. The Department received a check from the petitioner in this amount on October 16.

3. Later in October the Department learned the check had been returned for insufficient funds. However, it was beyond the notice period to terminate the petitioner's VHAP for November.

4. On October 30, 2008 the Department sent the petitioner another bill for \$135 due November 15, 2008 for her December 2008 premium. When the petitioner failed to make this payment the Department notified her that her VHAP coverage would end on November 30, 2008.

5. The petitioner reapplied for VHAP on December 5, 2008, and was sent a premium bill of \$33 based on new income information the petitioner had provided. The petitioner paid this bill on December 12, 2008, at which time the Department found her eligible for the Healthy Vermonters Program (HVP), with coverage effective December 5, 2008 (the date of her reapplication), and it notified the petitioner that she would

again be eligible for VHAP, with coverage beginning January 1, 2009.¹

6. On December 30, 2008 the Department sent the petitioner another premium bill of \$33, which was due on January 15, 2009 for February 2009 coverage. However, on January 20, 2009 the Department notified the petitioner that her VHAP would close on January 31, 2009 due to a recent increase in the petitioner's income.

7. It is not clear when the petitioner may have received the above notice, but on January 21, 2009 the Department received her \$33 payment for February. Inasmuch as it had already terminated the petitioner's VHAP coverage for February (for reasons unrelated to the premium) the Department applied the \$33 payment as a "credit on her account.

8. On February 3, 2009 the petitioner reapplied for VHAP was sent a premium bill for March 2009 based on the latest income information the petitioner had provided. The petitioner paid this bill on February 9, 2009, at which time the Department found her eligible for the Healthy Vermonters Program (HVP), with coverage effective February 3, 2009 (the

¹ HVP is a program that allows enrollees to purchase most pharmaceutical prescriptions at a discount.

date of her reapplication), and it notified the petitioner that she would again be eligible for VHAP, with coverage beginning March 1, 2009.

9. The Department credited the \$33 payment the petitioner had made on January 21, 2009 toward her March 2009 premium.

10. Unfortunately the petitioner incurred emergency medical expenses in February 2009 before her VHAP coverage was reinstated on March 1, 2009. When VHAP did not cover her medical expenses in February the petitioner filed this appeal. There is no claim or indication that the petitioner appealed any of the Department's prior decisions in her case.

11. The petitioner initially maintained that she had subsequently made good on the October 2008 premium check that was returned for insufficient funds. Because of this, the petitioner argued that the Department should have allowed her to apply this payment as her premium for February 2009, and allow her retroactive VHAP coverage for the medical expenses she incurred that month. The Department maintained that it has never received such a payment.

12. The matter was continued to allow the petitioner to produce bank records that she had covered the October 2008 check that had been returned. However, at the June status

conference held in this matter the petitioner conceded that she could find no record of such a payment.

13. The petitioner also does not dispute the Department's position that based on its retrospective review of her circumstances, she was indeed over the income maximum for VHAP in February 2009.

ORDER

The Department's decisions terminating the petitioner's VHAP coverage as of February 1, 2009 and not granting the petitioner retroactive coverage for February 2009 is affirmed.

REASONS

Based on a legislative directive (Act 66 of 2003) to enact cost-savings measures designed to sustain the public health care assistance programs, the Department has adopted regulations establishing monthly "premiums" to be paid prospectively by VHAP recipients. There is no dispute that the Department reestablished the petitioner's VHAP coverage effective the first day of the month (March 1) following the date it received her premium payment (February 9). This was fully in accord with the program regulations at § 3504(B). Unfortunately, there are no provisions in the regulations for

prospective or retroactive reinstatement of coverage
immediately upon receipt of a late premium payment.

Even if there was such a provision, it would not apply in this case because the petitioner was ineligible in that month based on her income. Inasmuch as the Department's decisions in this matter were in accord with the pertinent regulations the Board is bound to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule 1000.4D.

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